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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/742,343	12/19/2003	Stephen Gara	THR-5005 USNP	6427

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EXAMINER

BIANCO, PATRICIA

ART UNIT PAPER NUMBER

3761

DATE MAILED: 09/01/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.		Applicant(s)	
	10/742,343		GARA, STEPHEN	
	Examiner		Art Unit	
	Patricia M. Bianco		3761	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 December 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 December 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>12/19/03; 6/4/04</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Drawings

Figure 1 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). Corrected drawings in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

The abstract of the disclosure is objected to because it contains legal phraseology (i.e. comprising: and the present invention) and reads like a claim rather than being narrative in form. Correction is required. See MPEP § 608.01(b).

Claim Objections

Claim 1 is objected to because of the following informalities: it appears that multiple grammatical errors are present in the claim; when referring to *partition* and *boundary* in the wherein clause of the claim these structures are referred to in both the singular and plural versions. It appears that they should be maintained in the plurals-partitions and boundaries. Appropriate correction is required.

Claim 7 is objected to because of the following informalities: "secondport" in line one of the claim is a grammatical error, it is missing a space, and should read "second port" to correct this. Appropriate correction is required.

Claim 9 is objected to because of the following informalities: "consistingof" in line two of the claim is a grammatical error, it is missing a space, and should read "consisting of" to correct this. Appropriate correction is required.

Claim 17 is objected to because of the following informalities: "the was solution" in line one of the claim appears to be a grammatical error. It is presumed that applicant intended to recite *the wash solution*. If this is the case, it should also be noted that neither claim 15 nor claim 12, from which claim 15 depends from, provides proper antecedent basis for *the wash solution*. However, claim 16 does set forth a wash solution and if claim 17 is to recite the wash solution, the dependency should be

corrected to avoid a rejection under 35 USC 112, second paragraph. Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 8 recites the limitation "the channel" in line one of the claim. There is insufficient antecedent basis for this limitation in the claim.

Claim 20 recites the limitation "the photoactivable agent" in line one of the claim. There is insufficient antecedent basis for this limitation in the claim.

Claim 21 recites the limitation " the photoactivable agent " in line two of the claim. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-9 and 11 are rejected under 35 U.S.C. 102(b) as being anticipated by Weber (3,628,445). Weber discloses a device for irradiation fluids wherein the device is

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comprised of a first plate (2), a second plate (3), and multiple, evenly spaced dividers (5). The device is fit together as a single unit by attaching the first and second plates to one another to define a chamber. The chamber forms a torturous or serpentine path (see figure 2). Weber teaches that the device may be made of any suitable material and that the device plates are transparent to rays in the wavelength between 3,500Å to 4,500Å which is equivalent to between 350 nm and 450 nm. The device has two ports in communication with the plates and chamber. See entire disclosure.

Claims 1-21 are rejected under 35 U.S.C. 102(b) as being anticipated by Lee et al. (4,737,140). Lee et al. discloses a U.V. light assembly for use with an extracorporeal blood separation assembly. The U.V. light assembly is comprised of a first and second plates fit together to define a thin cavity to receive blood or separated blood components. The cavity is separated into a serpentine path by multiple, evenly spaced dividers. Lee teaches that the device may be made of polycarbonate and is transparent to UVA rays, which are in the wavelength range between 320 nm and 400 nm. Lee also teaches that a photoactivating agent, such as 8-methoxy psoralen (8 MOP), may be added to the blood or blood component (see col. 7, lines 12-14). It is also taught by Lee that the separated component from the blood can be leukocytes or a buffy coat.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Weber (3,628,445). Weber discloses the invention substantially as claimed, see rejection *supra*, however, fails to disclose specifically that the plates are made of polycarbonate or acrylic. Weber does teaches that the device may be made of any suitable material. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to choose the suitable material to be either polycarbonate or acrylic, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416.

Conclusion


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Patricia M. Bianco whose telephone number is (571) 272-4940. The examiner can normally be reached on Monday to Friday 9:00-6:30, alternate Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tatyana Zalukaeva can be reached on (571) 272-1115. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

August 21st, 2006

Patricia M Bianco
Primary Examiner
Art Unit 3761


PATRICIA BIANCO
PRIMARY EXAMINER